In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 16156 of 2006

Date of Decision: October 12, 2006

Sanjay Kumar

…Petitioner

Versus

Managing Committee, Seth Jai Parkash, Mukand Lal Institute of Engineering & Technology, Radaur and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. Ram Kumar Malik, Advocate,
for the petitioner.

JUDGMENT

M.M. KUMAR, J.

The petitioner has been working as a Lecturer since 13.8.1998 after his due selection by the Selection Committee, which had considered the claim of all eligible persons who had applied in pursuance to the advertisement. His appointment was approved by the Kurukshetra University, Kurukshetra, on 3.12.1999. The total period of probation admittedly is three years. Before completion of his probation period of three years, the Board of Directors of the respondent College terminated his services on 26.8.2000. The petitioner filed statutory appeal before the Director, Technical

Education Department, Haryana, which was returned with the observation that the Haryana Affiliated Colleges (Security of Service) Act, 1979, was not applicable, which led filing C.W.P. No. 15325 of 2001 by him. A Division Bench of this Court vide order dated 28.3.2003 (P-9) while disposing of writ petition held that the Director had the jurisdiction under the 1979 Act to adjudicate on the appeal filed by the petitioner. When the appeal was heard by the Director Technical Education, the respondent Management again raised the objection that in view of the judgment of Hon'ble the Supreme Court in the case of **T.M.A. Pai Foundation v. State of Karnataka, (2002) 8 SCC 481**, the Director was not no longer competent to entertain the appeal and to decide the same. The Director overruled the objection vide order dated 2.7.2003 (P-10), which resulted in filing of CWP No. 10048 of 2003 by the respondent Management before this Court. The petition was dismissed as withdrawn on 13.11.2003 with liberty to the respondent Management to file review application (P-11). Accordingly, the respondent Management filed review application and it was during the pendency of the application that the State of Haryana on 8.9.2005 issued a notification clothing the District and Sessions Judge with the power to hear the appeal (P-12). As a consequence, the parties were directed to file appeal before the District and Sessions Judge. The learned District Judge, Yamuna Nagar at Jagadhri, has dismissed the appeal, vide order dated 2.6.2006 (P-15), which is subject matter of challenge in the instant petition.

The matter, in fact, is squarely covered by our judgment rendered in the case of **Sunita Gupta v. Managing Committee, Seth Jai Parkash, Mukan Lal Institute of Engineering & Technology, Radaur and others** (C.W.P. No. 16011 of 2006, decided on 10.10.2006), wherein another probationer lecturer working with the respondent Management had approached this Court and we have dismissed the petition upholding the order of the same learned District Judge of the same date. The impugned order dated 2.6.2006 (P-15) is identical in terms although the petitioners are different. Therefore, we find that the matter is squarely covered by our order passed in C.W.P. No. 16011 of 2006, decided on 10.10.2006. The only argument raised in the aforementioned case was that the case was required to be examined under Rule 8 of the Haryana Affiliated Colleges (Security of Service) Rules, 1993. In the instant case also the same argument has been raised and there is no additional argument urged on behalf of the petitioner. For the parity of reasoning and identical issue having been raised in the instant petition as was raised in the earlier C.W.P. No. 16011 of 2006, decided on 10.10.2006, we find that this petition is liable to be dismissed.

For the reasons aforementioned, this petition fails and the same is dismissed in light of the judgment dated 10.10.2006, passed in C.W.P. No. 16011 of 2006.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)
JUDGE

October 12, 2006

Pkapoor